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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. **2011-838**

12 **SARAH ROSE DANIEL**
402 Olympus, #3
13 Hercules, CA 94547

A C C U S A T I O N

14 Registered Nurse License No. 762633

15 Respondent.

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17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs (Board).

22 2. On or about November 4, 2009, the Board issued Registered Nurse License No.
23 762633 to Sarah Rose Daniel (Respondent). The Registered Nurse License was in full force and
24 effect at all times relevant to the charges brought herein and will expire on March 31, 2013,
25 unless renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Board under the authority of the following
3 laws. All section references are to the Business and Professions Code unless otherwise indicated.

4 **STATUTORY PROVISIONS**

5 4. Section 118, subdivision (b), of the Code provides that the
6 suspension/expiration/surrender/cancellation of a license shall not deprive the
7 Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period
8 within which the license may be renewed, restored, reissued or reinstated.

9 5. Section 490 of the Code provides that a board may suspend or revoke a license on the
10 ground that the licensee has been convicted of a crime substantially related to the qualifications,
11 functions, or duties of the business or profession for which the license was issued.

12 6. Section 2750 of the Code provides that the Board may discipline any licensee,
13 including a licensee holding a temporary or an inactive license, for any reason provided in Article
14 3 (commencing with section 2750) of the Nursing Practice Act.

15 7. Section 2761 of the Code provides:

16 "The board may take disciplinary action against a certified or licensed nurse or deny an
17 application for a certificate or license for any of the following:

18 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

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20 "(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
21 violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice
22 Act] or regulations adopted pursuant to it.

23 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
24 functions, and duties of a registered nurse, in which event the record of the conviction shall be
25 conclusive evidence thereof..."

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1 8. Section 2762 of the Code provides:

2 "In addition to other acts constituting unprofessional conduct within the meaning of this
3 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
4 chapter to do any of the following:

5 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed
6 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or
7 administer to another, any controlled substance as defined in Division 10 (commencing with
8 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
9 defined in Section 4022.

10 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
11 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
12 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
13 himself or herself, any other person, or the public or to the extent that such use impairs his or her
14 ability to conduct with safety to the public the practice authorized by his or her license.

15 "(c) Be convicted of a criminal offense involving the prescription, consumption, or
16 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
17 or the possession of, or falsification of a record pertaining to, the substances described in
18 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
19 thereof.

20 9. Section 2764 of the Code provides that the expiration of a license shall not deprive
21 the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to
22 render a decision imposing discipline on the license. Under section 2811(b) of the Code, the
23 Board may renew an expired license at any time within eight years after the expiration.

24 10. Health and Safety Code section 11550 makes it unlawful for any person to use or be
25 under the influence of any controlled substance in Schedule II (Health and Safety Code section
26 11055), or any narcotic drug in Schedules III-V, except when administered or under the direction
27 of an authorized license.

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1 **REGULATORY PROVISIONS**

2 11. California Code of Regulations, title 16, section 1444, provides:

3 "A conviction or act shall be considered to be substantially related to the qualifications,
4 functions or duties of a registered nurse if to a substantial degree it evidences the present or
5 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
6 safety, or welfare."

7 **COST RECOVERY**

8 12. Section 125.3 of the Code provides that the Board may request the administrative law
9 judge to direct a licensee found to have committed a violation or violations of the licensing act to
10 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

11 **CONTROLLED SUBSTANCES / DANGEROUS DRUGS**

12 13. Ambien is a Schedule IV controlled substance, as designated by Health and Safety
13 Code section 11057, subdivision (d)(32), and is categorized as a dangerous drug pursuant to
14 section 4022 of the Code.

15 14. Cymbalta is categorized as a dangerous drug pursuant to section 4022 of the Code.

16 15. Seroquel is categorized as a dangerous drug pursuant to section 4022 of the Code.

17 **FIRST CAUSE FOR DISCIPLINE**

18 **(Conviction of Substantially Related Crime)**

19 16. Respondent is subject to disciplinary action under sections 490 and 2761,
20 subdivision (f), in conjunction with California Code of Regulations, title 16, section 1444, in that,
21 Respondent was convicted of a crime substantially related to the qualifications, functions or
22 duties of a registered nurse which to a substantial degree evidences her present or potential
23 unfitness to practice in a manner consistent with the public health, safety, or welfare. The
24 circumstances are as follows:

25 a. On or about December 9, 2010, after pleading guilty, Respondent was convicted of
26 one misdemeanor count of violating Vehicle Code section 23152(a) [driving under the influence
27 of alcohol and / or drugs] in the criminal proceeding entitled *The People of the State of California*
28 *v. Sarah Rose Daniel* (Super. Ct. San Bernardino County, 2010, No. TSB1000932). The Court

1 placed Respondent on three (3) years probation and ordered her to complete a 9-month County
2 approved alcohol program.

3 b. The circumstances underlying the conviction are that on or about January 28, 2010, a
4 San Bernardino Police Officer arrested Respondent for driving under the influence of alcohol
5 after her vehicle collided into the center road median. Respondent was tested as having a blood
6 alcohol level of 0.223% / 0.226% and admitted to the arresting officer to being under the
7 influence of Ambien, Cymbalta, and Seroquel.

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Alcohol Related Conviction)**

10 17. Respondent is subject to disciplinary action under section 2761, subdivision (a), in
11 conjunction with 2762, subdivision (c), on the grounds of unprofessional conduct, in that, on or
12 about December 9, 2010, Respondent was convicted of a criminal offense involving alcoholic
13 beverages. Complaint refers to and by this reference incorporates the allegations set forth above
14 in paragraph 16, subparagraphs a and b, inclusive, as though set forth fully.

15 **THIRD CAUSE FOR DISCIPLINE**

16 **(Dangerous Use of Alcohol / Controlled Substances and / or Dangerous Drugs)**

17 18. Respondent is subject to disciplinary action under section 2761 (a), and 2762,
18 subdivision (b), on the grounds of unprofessional conduct, in that, on or about January 28, 2010,
19 Respondent used alcoholic beverages, a controlled substance, and / or dangerous drugs to an
20 extent or in a manner dangerous or injurious to herself or others when she drove a vehicle while
21 under the influence of alcohol, Ambien, Cymbalta, and Seroquel. Complaint refers to and by this
22 reference incorporates the allegations set forth above in paragraphs 16 and 17, inclusive, as
23 though set forth fully.

24 **FOURTH CAUSE FOR DISCIPLINE**

25 **(Unlawfully Obtain / Self Administer Controlled Substances/Dangerous Drugs)**

26 19. Respondent is subject to disciplinary action under sections 2761, subdivision (a), and
27 2762, subdivision (a), in conjunction with Health and Safety Code section 11550, on the grounds
28 of unprofessional conduct, in that, on or about January 28, 2010, Respondent unlawfully obtained

1 and administered to herself a controlled substance and / or dangerous drugs. Complaint refers to
2 and by this reference incorporates the allegations set forth above in paragraphs 15-18, inclusive,
3 as though set forth fully.

4 **FIFTH CAUSE FOR DISCIPLINE**

5 **(Unprofessional Conduct / Violate Act)**

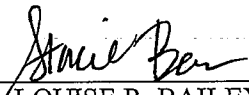
6 20. Respondent is subject to disciplinary action under section 2761, subdivisions (a) and /
7 or (d), in that, Respondent committed acts of unprofessional conduct, and / or acts violating
8 provisions of the Nursing Practice Act. Complaint refers to and by this reference incorporates the
9 allegations set forth above in paragraphs 15-19, inclusive, as though set forth fully

10 **PRAYER**

11 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
12 and that following the hearing, the Board issue a decision:

- 13 1. Revoking or suspending Registered Nurse License No. 762633, issued to Sarah Rose
14 Daniel;
15 2. Ordering Sarah Rose Daniel to pay the Board the reasonable costs of the investigation
16 and enforcement of this case, pursuant to section 125.3; and
17 3. Taking such other and further action as deemed necessary and proper.
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21 DATED: 4/12/11


LOUISE R. BAILEY, M.ED., RN
for Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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